IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1503 OF 2006

IN

FIRST APPEAL NO. 843 OF 2006

Arvind M. Shah
& Ors. .. Applicants.

vs.

M.L. Shah D/H Ranjit M. Shah
& Ors. .. Respondents.

Dr. V.V. Tulzapurkar, Sr. adv. i/by M. M. Sathaye
for Applicants.
Mr. A.A. Abhyankar, Sr. Adv. i/by M.V. Mhatre
for Respondent Nos.2,3, 4a to 4c.

Coram: J.N. PATEL &,
A.A. SAYED, JJ.
Date: 26th JUNE, 2007.

P.C.

. There will be stay of decree for possession on the condition that the applicants shall deposit the decretal amount with costs and would deposit a sum of Rs. 4000/- per month from the date of filing of the suit till the impugned judgment and decree has been

passed with interest at the rate of 6% per annum in the trial Court.

2. The applicants shall continue to deposit a sum of Rs. 4000/- per month from 1st December 2005 onwards. The decretal amount as well as all the arrears of use and occupation charges / compensation as directed by this Court till 30.6.2007 be deposited in the trial Court by 31.10.2007. On such deposit being made the respondent - original plaintiff decree holder - will be entitled to withdraw the same on furnishing security to the satisfaction of the trial court. The compensation / use and occupation charges commencing from 1.7.2007 shall be deposited on or before 10th of the following month in the trial Court. Any two consecutive defaults in depositing the amount as directed by this Court would result in vacation of the interim orders without any further reference to the Court. Such amount of use and occupation charges / mesne profits which is directed by this Court right from the date of the filing of the suit would be subject to settlement of accounts in case an inquiry into future mesne profit as directed by the trial Court is required to be conducted on decision of the appeal. The respondent will be entitled to withdraw the same on the strength of the security which is directed to be furnished to the satisfaction of the trial Court.

3. The applicants are restrained from creating

any encumbrance, third party rights or alienate the suit property in any manner whatsoever or part with possession during the pendency of the appeal.

4. The civil application stands disposed of accordingly. No order as to costs.

(J.N. Patel, J.)

(A.A. Sayed, J.)